



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of **Whitman et al**
Application No. **09/887,789**
Attorney Docket No. **3556-P03147US1**
Filed: **June 22, 2001**
For: **Electro-Mechanical Surgical Device**
Examiner: **Tran, Louis B.**
Group Art Unit: **3721**

TERMINAL DISCLAIMER

Power Medical Interventions, Inc. (hereinafter "Owner"), a Corporation, states that it is the assignee of the entire right, title, and interest in the patent application identified above by virtue of an assignment from the inventor(s) of the patent application identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel No.012498, Frame No.0490.

The Owner hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending Application Numbers: 10/256,659 and 10/256,893 both filed on September 26, 2002. The Owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the above-listed applications are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the Owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that either of the prior patents later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

The undersigned is an attorney or agent of record.

Respectfully submitted,

12/03/2004 DEMMANU1 00000052 09887789

02 FC:2814

55.00 OP

DANN, DORFMAN, HERRELL & SKILLMAN
A Professional Corporation
Attorneys for Applicant(s)

By


Donald R. Piper, Jr.

PTO Registration No. 29,337

Telephone: (215) 563-4100

Facsimile: (215) 563-4044